

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on January 31, 2003 at 3:00 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB 74, 1/27/2003
Executive Action: None

VICE-CHAIR CLARK presided at this point.

HEARING ON HB 74

Sponsor: REP. DAVE LEWIS, HD 55, Helena

Opening Statement by Sponsor:

REP. LEWIS handed out Exhibit 1 and explained HB 74. This is the bill that implements the Governor's proposal to transfer \$93 million from the Coal Severance Tax Trust Fund. Basically, the Governor's budget included the \$93 million that is in this bill. If this bill is not passed, or they don't come up with some other equivalent revenue, they have to take roughly \$100 million or \$93 million out of the Governor's budget. There are a lot of serious issues that will have to be faced if they don't come up with additional funds to place into those budgets.

This issue has come up many times through the years. He feels they are not making good enough use of the Trust itself and explained Exhibit 1 and where the proposal to move \$93 million would come from; The Permanent Fund (\$544 million). The \$93 million would properly fund some of the programs in state government that we are not going to be able to fund if we don't come up with extra money. Right now the only two valid proposals they have to balance the budget are to use the Coal Trust or look at the Workmen's Compensation Trust Fund (Work Comp). He thinks this proposal is much preferable than going into the Work Comp Trust Fund, which is funded by employer/employee money and running the risk of having to raise Work Comp rates in the future.

The only other option would be tax increases which are being debated now in committees. Some of those may make it through the floor soon but they will have a difficult time going through.

He has been following the situation in Oregon very carefully. Oregon has some very painful budget cuts on the agenda. With the current budget they have in place, they are going to have to shut down their K-12 schools May 1 because they will be out of money for this school year. A 10% or 12% income tax surtax was put on the ballot. It failed by a very large margin. He thinks the people of Montana would react to tax increases the same way. It is totally responsible to look at this amount of money, \$544 million, and at try to cover the shortfall which is aimed at FY 2004.

He feels they can do this on a one-time basis and fill in the FY 2004 budget, will still have to make cuts but at least maintain some of the more seriously needed programs and avoid some of the more drastic cuts which have been contemplated.

EXHIBIT (aph21a01)

Proponents' Testimony:

Chuck Swysgood, Director, Office of Budget and Program Planning, said HB 74 is one of the key components to the executive budget that was presented to the Legislature in January. He explained the process his office went through before they made a decision on how they would bring the deficit into balance. He said that money out of the Coal Trust has been used nine times in the past.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 26.6}

Tom Beck, Chief Policy Advisor, Governor's Office, said when they looked at the Coal Tax Trust Fund, in trying to balance the Governor's budget, the Governor felt bad about going any deeper for the cuts. They realized it was going to take a bipartisan effort to maintain the budget, after the cuts were made by the Department, to strive to keep the budget as whole as they possibly could. The Governor does not want to increase taxes.

Opponents' Testimony:

Verner Bertelsen, Montana Senior Citizens' Association, said his Association stands in strong opposition to HB 74.

{Tape: 1; Side: A; Approx. Time Counter: 26.6 - 29.2}

The Trust has provided over \$900 million interest for the State of Montana. It has and is sponsoring many outstanding programs. He feels we should not borrow money to balance the State's budget.

Margaret Crennen, Capital City Task Force, AARP, Montana, said it was created in the 1970s it was an investment for their children's future and now it is an investment in the economic stability of our own present and future.

Archie Nunn, President, Montana Senior Citizens' Association.

Hal Harper, Self, Helena, said both parties need each other in this session like never before. Think about the budget that the next Legislators are going to have to balance in two years and four years. They are going to do it without this revenue source being able to help them out.

Bob Ream, Chairman, Montana Democratic Party, said they do have a platform position on this: "We support the Constitutional Coal Tax Trust Fund as a true endowment Fund for the people of Montana. We believe this Fund and the principle of any other such Funds should be managed to promote Montana's economic growth, including investment in community infrastructure and other in-state investments. Such investments, however, should be accomplished while protecting the integrity of the principle of such Trusts and the Constitutional allocations to the principle of such Trusts."

Linda Grycyan, Montana Women's Lobby.
EXHIBIT(aph21a02)

Gene Fenderson, Montana Progressive Labor Caucus.

Don Judge, Representing the Teamsters Local 190 and workers throughout the eastern half of Montana, said there are a number of alternatives available instead of going to the Coal Trust. He mentioned several taxes, such as cigarette tax, motor vehicle rental taxes, motel taxes, alcohol taxes, hydro-generation taxes, gross receipt taxes, etc.

REP. DAVE WANZENRIED, HD 68, Missoula said HB 74 is about now but the Coal Trust Fund is about the future and always has been and that is what is was set up for.

{Tape: 1; Side: B; Approx. Time Counter: 0.0 - 29.7}

The Fund was set up as a Trust and as an endowment, not as a check book. The Trust Fund is simply a ruse to put off the inevitable. We should take the responsible long-term solution. If we have to cut programs, so be it.

Chris Christiaens, Montana Chapter, National Association of Social Workers, asked that action be taken on this bill as quickly as possible so that people know where they may be standing as far as revenue before the rest of this session. Another option would be an increase in the gambling proceeds. Right now that cap is set at 15% and if that were increased to 30% that also raises \$93 million.

Judy Smith, Citizen, Missoula and owner of residential and commercial property whose property taxes have almost doubled in the last ten years. She also appears as an advocate of low income families. As a citizen she is here to say, "Citizens know something is wrong. Citizens know the same thing has been tried for several years and things haven't gotten better. An answer to

making something better is not to take something from the Trust Fund for a one-time fix. She and many others will pay more taxes if they think it is a fair deal."

She has a concern that there is one sector of the community that is not paying their fair share. This bill is not a fair share approach.

Daniel Watson, Rosebud County Commissioner

Mary Caferro, Working for Equality and Economic Liberation

Informational Testimony: None

Questions from Committee Members and Responses:

REP. KASTEN said, "Now we have this Trust in place and people are opposing the solution." He asked **Mr. Harper** if he can find ways to take \$93 million out of the budget. **Mr. Harper** said he does support coal production. He has seen the disruptive influence that a bill such as this has when it can be used in a political way. He feels the committee should put hard cuts and hard scrutiny on every executive budget and should not leave this kind of budget hole for the next Legislature.

REP. KASTEN asked **Mr. Swysgood** to comment on his testimony that we had used money out of the Trust before. **Mr. Swysgood** said, "In the past few years, the Coal Trust has been used nine times but didn't say it was used to balance the budget."

REP. KASTEN referred to **Mr. Ream** saying, "The budget in Montana is slightly over \$6.6 billion and there are about 378,000 households on the payroll. It has been stated that the taxes should be increased but how can these few households, with the large government we have, be asked for more money?" **Mr. Ream** said the issues we're dealing with aren't easy. What they are dealing with here is a one-time source of revenue but others spoke to other possible revenue sources.

REP. FRANKLIN asked **Mr. Watson** how he felt about coal production. **Mr. Watson** said he does support coal production.

REP. FRANKLIN referred to **Mr. Fenderson** and the groups he represents, such as labor organizations, and asked, "What tends to be their positions on the development of coal?" **Mr. Fenderson** said he represents people who work in the industry and they certainly support the production of coal as he does.

REP. BUZZAS asked **Mr. Swysgood** why the Governor wouldn't consider her tourism tax increase going to the General Fund versus going to an income tax reduction if they are looking at money to fund education. **Mr. Swysgood** said the Governor believes that to stimulate the economy and the economic development in this state, tax reform is needed and that is part of her tax reform package. The capital gains tax is offset by those tax proposals. **REP. BUZZAS** said, following that sort of logic, when he was putting this budget together, that the biggest deficit was not going to come in FY 2004 because the revenue was not anticipated to increase. "Did he anticipate that it would increase in FY 2005?" She feels they are basing this whole plan on a lot of assumptions. "What are his assumptions that things will be so different, in terms of revenue, in 2005 than they would be in 2004 and will this step have to be taken again in 2005?" **Mr. Swysgood** said they do revenue projections and incorporate a lot of factors along with input from their economic forecasters. The numbers are calculated and put in the models and the models come back with projections. Those projections are higher than what they are anticipating. They felt those growth rates associated with those projections, based on what the economy is doing, just might not come about, so they did not accept all those projections and, instead, used lower ones.

In response to the difference between 2004 and 2005, **Mr. Swysgood** said one of the major drivers of the revenue are wages and salary growth and it is projected to increase and is increasing now.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.7}

REP. PATTISON said he understood **REP. WANZENRIED** had a plan to find some money in the Workmen's Compensation Fund. **REP.**

WANZENRIED said the point that was made about HB 434 is, if they do decide to take the short-term solution, HB 434 simply offers an alternative short-term solution. That is not necessarily where they need to go, but the proposal has been advanced for two reasons: (1) To provide a comparison and to apply the same standard of criticism to that bill and this bill at the same time. (2) To eliminate the argument that the only way out of this is to have a super majority. That bill simply requires a simple majority for money to be transferred. This bill will require 3/4 vote.

REP. PATTISON asked **REP. WANZENRIED** if he was interested in developing Natural Resources for raising revenue. **REP.**

WANZENRIED said he would be open for any proposal that would jump-start the economy and sustain its momentum and stop trying to jump-start it with things that haven't worked including the development of natural resources.

REP. MUSGROVE asked if we are at a totally reduced level of the budget. **Clayton Schenck, Legislative Fiscal Analyst**, said, "That is right. The executive budget has reductions that would take care of the \$232 million and the \$93 million here to get the rest of the way. The actions at the beginning of the session to reduce the budget to the 2000 level reduced it by an additional \$160 million. Part of that reduction created a fund of approximately \$60 million that the committee can put back in."

REP. MUSGROVE asked, "What is the FY 2003 ending projection at this point?" **Mr. Schenck** said, "The projection for FY 2003 is currently \$4.3 million and there is an audit adjustment that will have to be considered based upon the State Financial Audit Report that was presented last night that will reduce that by another \$1.9 million." **REP. MUSGROVE** asked, "What is the total debt load that the state carries that doesn't show on the budget?" **Mr. Schenck** said he would get that information.

In response to a question from **REP. RIPLEY** regarding her statement about "real solutions," **Ms. Caferro** said her organization (WEEL) has quite a few real solutions but said she would rather not talk about them now and referred the question to Ms. Smith. **Judy Smith** said WEEL is part of a network that is called the Fair Share Network and their #1 priority is a balanced tax package. This means that all the different sectors are paying into the package and right now they don't think this is happening.

REP. WITT referred to Mr. Fenderson as having been in the coal business and had an interest in coal for many years and asked him about his statement at one time that it was a good idea to reduce coal taxes and now he doesn't. "Is production going up or is it going down?" **Mr. Fenderson** said, "Looking at the production of coal and the challenge that Governor Schwinden had because the coal companies cried for lowered taxes and were playing Montana and Wyoming off against each other because of the taxes. Production peaked the following year and has not peaked to that point since." That was where his thought process was coming from. Coal production went down a little last year.

REP. WITT asked, "If we increase taxes are we not going to lose more coal business?" **Mr. Fenderson** said he is not advocating an increase in the coal tax although he understands there may be some legislation for that.

REP. WITT asked Mr. Christiaens if the state is not deriving a large portion of the state budget from gambling. **Mr. Christiaens** said "Yes." "Local government is very dependent upon the gaming tax, however, if they were to increase it the gambling revenues would not go away and they could utilize some of those funds to

go to treatment programs for pathological input and some of those funds might be put in the General Fund."

REP. HEDGES asked Mr. Bertelsen if he had some long-term solutions he could offer. **Mr. Bertelsen** said he didn't have any more knowledge or ability than the committee or the Legislature.

REP. FISHER asked Mr. Watson what percentage of Rosebud County's budget is attributed to the installation of the generators there. **Mr. Watson** said the total percentage of the taxable value is roughly 84%.

REP. FISHER asked **REP. WANZENRIED** why the Department of Health and Human Services budget is so high in light of the unemployment rate. **REP. WANZENRIED** said he doesn't know that there is a direct correlation between the unemployment rate at any given time and the needs that exist that are serviced by the Department of Health and Human Services. All of this state's population is getting older because people are living longer and younger people aren't staying here. So there is an age profile that is much older that needs to be taken care of. The economy despite the fact that the unemployment rate is down leaves a lot of people behind. They are homeless, they are without health insurance and those things cause that Department's budget to be increased.

REP. KAUFMANN asked Mr. Bertelsen if the organizations he represented oppose those other nine uses of the Coal Tax Trust Fund and are there differences between those uses and this use. **Mr. Bertelsen** said at the time he was not acting as a peer in the local citizens group so he wasn't actually opposing the transfers. In answer to a question from **REP. KAUFMANN** concerning opposing coal production, **Mr. Bertelsen** said his organization has never issued such a statement.

REP. JUNEAU referred to cutting \$93 million from the Coal Trust which would generate a lot of money for various projects in the local communities. She asked what would happen to those communities in terms of tax issues they will face concerning those projects such as water projects etc. that the program funds. **Mr. Harper** said his fear is that taking this money from the Coal Tax Trust Fund is going to impact local governments and local property tax payers at a number of levels. The Treasure State Endowment relies on a flow into the Trust which does the water bonding program and the school bonding program. There are other proposals this Legislature has to take some of the money flowing in.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 29.7}

REP. SINRUD referred to Ms. Smith's statement of "fair share" and asked her to define "fair share." **Ms. Smith** said, "When you look at the sectors of economy, some are paying a larger percentage than others. She used rental cars as an example. There is no tax on rental cars and that is not a fair share."

REP. SINRUD asked if nonprofit groups pay taxes. **Ms. Smith** said it depends on the nature of the work. For some of her direct service kinds of things they don't but there might be things they do that they might pay taxes on so it would depend on what activity.

REP. SINRUD asked for a point of personal privilege. His point is that they look at things from a jaded perspective and the value is that they need to take a look at this budget and see what they can do to provide the least impact to the taxpayers of this state.

REP. BRUEGGEMAN referred to Ms. Caferro and said, "If there is no option to replace the money that was reduced when they went to the FY 2000 budget, but for this Coal Trust money, would you then support using it?" **Ms. Caferro** said there is no "if" in this so the question is hypothetical. **REP. BRUEGGEMAN** repeated his question. **Ms. Caferro** said there are other options.

REP. BRUEGGEMAN posed the same question to Ms. Smith. **Ms. Smith** said there are many options and her constituents would not be willing to take from the Coal Trust Fund for a one-time thing.

REP. JAYNE asked **REP. LEWIS** how he came up with \$93 million as opposed to \$100 million or \$60 million. **REP. LEWIS** said this is the Governor's recommendation and what was needed to balance the Governor's budget. This is an Office of Budget and Program Planning bill and simply implements the Governor's recommendation.

He has been struggling how to allocate this money. The reduction in Human Services was about \$44 million. They were down about \$24 million in Higher Education and are down another \$8 million or \$10 million in the Court system. Then money has to be added in as the Subcommittees go through their process. He is working on an amendment to recognize what part of the Governor's budget will go back with this bill.

REP. LEWIS said history in the past two years shows that revenues come in above estimate but that certainly is not the case this year. Director Swysgood maintains the growth, job creation, and personal income right now should have a good chance of collecting more than the revenue estimate. Basically, what this means is,

if more is collected than what is in the revenue estimate, that money will be transferred back to the Coal Trust.

REP. JAYNE asked **REP. LEWIS** if he agrees coal is a nonrenewable resource and that one day there will be a very low amount or we'll run out and at that point we will need to have the fund available. **REP. LEWIS** said the years' supplies of coal at the present rate of production is 3,000 years.

REP. BUZZAS asked **REP. LEWIS** if he has calculated the impact of this bill on interest income that would be lost to the General Fund in the next biennium. **REP. LEWIS** said they will need \$86 million to fill the hole in the budget and then the \$7 million is the interest that will be lost in the first fiscal year.

REP. FRANKLIN asked Ms. Smith if she personally pays taxes as a citizen and **Ms. Smith** said, "Yes, she does, and as she said earlier she is a commercial property owner and pays taxes on that property."

In answer to a question from **REP. FRANKLIN**, **REP. WANZENRIED** said, "The issue is what will happen with the economy. If there is going to be money available in the short-term, then the answer is no. If it takes a long time to pay this back which is what they have been told, 6 to 8 years, that number will go up. It depends on how much the economy grows in the intervening years and how much discipline this body has to watch expenditures over that same period of time."

In answer to a question from **REP. KASTEN**, **REP. LEWIS** said we have pretty much grown with the economy so there has been a lot of growth in the economy, certainly over the last ten years, 5.8% per year has been tied into the growth and personal income.

REP. LEWIS said we have one of the lowest unemployment rates in the country. Nine thousand new jobs were created in the last year. The last quarter of last year we were number 1 in the country in the rate of growth and personal income. That indicates to him they have made a good investment with the tax changes made over the last few years. Things aren't going good but they are better than the rest of the states in the Northwest and on the Pacific Coast.

REP. JUNEAU asked Mr. Christiaens to comment on the unemployment rate that exists on the Montana Reservations and if the state was taking that into consideration. **Mr. Christiaens** said, "As former Chair of the State Tribal Relations Committee over the last two-year Interim, he visited two of the Reservations and the Committee tries to do that each Interim, but what they found is

the unemployment rate on Reservations is not 4%, but in some cases, 45% or higher.

{Tape: 3; Side: A; Approx. Time Counter: 0 - 29.3}

REP. KAUFMANN referred a question to **REP. LEWIS** saying he needed this bill to fund a hole in the Governor's budget but on the first day of the session he supported a motion to basically throw out that budget. "Why do you still need the Governor's budget?"

REP. LEWIS said what they did the opening day was take \$160 million out of the Governor's budget by going back to that 2000 base and then they put \$60 million back. They assumed a \$50 million fund balance and assumed a \$30 million fund balance and put \$80 million back. That is what they are doing in the process of the subcommittees. There is still a \$100 million hole there. This bill gives back to the Governor's budget.

REP. LEWIS said taking \$93 million out of the reserves of the Work Comp Trust Fund could be dealt with by a majority vote but he is not sure it really works and he thinks it is immoral to take the money from the employers and the employees.

REP. CALLAHAN asked if they take the money and things don't improve, what kind of a hole do they have to fill in the next biennium. **Terry Johnson, Principle Fiscal Analyst**, said you have to take a look at the FY 2005 biennium. In FY 2004, as the Executive proposes their budget, it is not structurally balanced in that particular year. Looking at FY 2005, it is close and depending on what sets of revenue estimates you use, the argument can be made it might be balanced or it might not be, depending on the numbers you use. The bigger question is what happens beyond that, and that is where you have to start taking a look at what you anticipate for revenue growth in the future biennium and you have to correspondingly look at what you think expenditure growth will be in the future biennium. That is where the problem starts to become very apparent. Nobody can predict what the revenues are really going to be in the FY 2005 biennium. Looking beyond this current biennium is really difficult. If you take a long-term trend on your anticipated revenue, it grows by about 2.5% per year. Basically, what that means, the biennium beyond that the expenditure base cannot grow by any more than that.

Closing by Sponsor:

REP. LEWIS thanked the committee for a very good hearing. This issue is what this session is all about. This is the most important decision they are going to make. He went through the chart (Exhibit 1) one more time. The transfer from the permanent fund would not impact the flow to all the other funds. That is

the difference between this proposal and the proposal that was heard in the Senate. That took the money out of the top and there was a lot of impact on some of these other funds.

When the subcommittees are done, and then the Appropriation full committee, this budget will be balanced without this bill and without any other bill but there will be some drastic things done. He is offering an opportunity with this bill to at least address some of those.

He closed the hearing on HB 74.

{Tape: 3; Side: B; Approx. Time Counter: 0 - 15.9}

ADJOURNMENT

Adjournment: 6:00 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph21aad)